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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN JOSE DIVISION**

11  
12 FEDERAL TRADE COMMISSION,  
13  
14 Plaintiff,  
15  
16 v.  
17 QUALCOMM INCORPORATED, a  
Delaware corporation,  
18  
19 Defendant.

Case No. 5:17-cv-00220-LHK

**PLAINTIFF FEDERAL TRADE  
COMMISSION’S RESPONSE TO  
STATEMENT OF INTEREST FILED  
BY UNITED STATES DEPARTMENT  
OF JUSTICE ANTITRUST DIVISION**

Courtroom: 7, 4th Floor  
Judge: Hon. Lucy H. Koh

19 The FTC files this short response to the untimely Statement of Interest submitted by the  
20 Antitrust Division of the U.S. Department of Justice to clarify that the FTC did not participate in  
21 or request this filing.<sup>1</sup> While, as the record shows, the FTC supports and is prepared to provide  
22 further briefing and argument on remedy should the Court’s liability ruling make such briefing  
23

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25 <sup>1</sup> Whether to permit or deny a statement of interest is committed to the discretion of the district  
26 court. *See, e.g., LSP Transmission Holdings, LLC v. Lange*, 329 F. Supp. 3d 695, 703–04 (D.  
27 Minn. 2018) (declining to consider statement of interest “[i]n light of the Antitrust Division’s  
unjustified delay and the fact that [the] case [had] been fully and thoroughly briefed by all other  
28 parties”); *United States ex rel. Gudur v. Deloitte Consulting LLP*, 512 F. Supp. 2d 920, 926–27  
(S.D. Tex. 2007), *aff’d*, No. 07-20414, 2008 WL 3244000 (5th Cir. Aug. 7, 2008).

1 and argument necessary,<sup>2</sup> we disagree with a number of contentions in the Statement. Among  
2 other things, the submission ignores this Court’s prior orders and the parties’ briefing on remedy  
3 and misconstrues applicable law and the record.<sup>3</sup> The FTC is cognizant, however, of the Court’s  
4 comments about the voluminous existing briefing in this case.<sup>4</sup> The FTC will therefore refrain  
5 from further comment on the Statement unless the Court requests otherwise.

6  
7 Dated: May 9, 2019

Respectfully submitted,

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10 FEDERAL TRADE COMMISSION

11 /s/ Jennifer Milici  
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22 <sup>2</sup> See ECF No. 928 at 2 n.1; ECF No. 932 at 4 n.4.

23 <sup>3</sup> See ECF No. 997, at 10 (Dec. 13, 2018 Court order that “[t]he January 2019 trial will address  
24 both liability and remedy”); ECF No. 75 (April 19, 2017 scheduling order; no bifurcation of  
25 liability and remedy); Nov. 15, 2017 Hr’g Tr. at 4:21-5:3 (ECF No. 314) (Court rejecting  
26 Qualcomm bifurcation proposal); Oct. 24, 2018 Hr’g Tr. at 49:24-57:18 (ECF No. 916)  
27 (extensive discussion of remedy issues); ECF Nos. 928, 929, 932, 933 (party briefs on remedy  
28 evidence); ECF No. 966, at 66-67 (FTC proposed conclusions of law on remedy); ECF No. 967,  
at 139-151 (Qualcomm proposed conclusions of law on remedy); ECF No. 1051, at 24-25  
(Qualcomm pre-trial brief); ECF No. 1053, at 21-22 (FTC pre-trial brief). The Statement also  
cites documents that Qualcomm chose not to introduce at trial and cites a commentator whom  
Qualcomm chose not to offer as a witness at trial. See Statement at 5 n.6.

<sup>4</sup> See Trial Tr. at 142:17-20, 396:13-16, 854:2-5, 1279:5-6.